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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/617,132	07/10/2003	David Chisnall	ASF-2	1443

22827 7590 04/22/2005

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EXAMINER

LOWE, MICHAEL S

ART UNIT	PAPER NUMBER
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3652

DATE MAILED: 04/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/617,132	Applicant(s) CHISNALL, DAVID	
	Examiner M. Scott Lowe	Art Unit 3652	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 1/27/05.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6,8,9,11 and 12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6,8,9,11 and 12 is/are rejected.
- 7) ☒ Claim(s) 1 and 8 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 July 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☒ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

This case has been reassigned to another examiner since the initial examiner is no longer with the USPTO.

The indicated allowability of claims 1-6,10,11 is withdrawn in view of the newly discovered reference(s) shown below. Rejections based on the newly cited reference(s) follow.

Drawings

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the control system, intermediate access position, vehicle, first and second stop means, and "combinations" must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering

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of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Objections

Claim 1 is objected to because of the following informalities: there is a missing comma or semicolon in line 10 between "stowed position" and "first". Appropriate correction is required.

Claim 8 is objected to because of the following informalities: applicant states "an item" in line 2 and "an item" in line 3. Although the first instance is in the preamble, this could be changed for consistency since other claims place "the" in front of items first described in the preamble. Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 2,3,4,5 are rejected under 35 U.S.C. 112, first paragraph, because the specification, while being enabling for a belt, chain, linear acting cylinder, actuator, hydraulic device, or electric device, does not reasonably provide enablement for

"combinations thereof" nor a pneumatic device. The specification does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to understand the invention commensurate in scope with these claims.

Claim 1 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The first and second stop means are neither shown in the drawings nor described in the specification.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 4,5 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

A broad range or limitation together with a narrow range or limitation that falls within the broad range or limitation (in the same claim) is considered indefinite, since the resulting claim does not clearly set forth the metes and bounds of the patent protection desired. See MPEP § 2173.05(c). Note the explanation given by the Board of Patent Appeals and Interferences in *Ex parte Wu*, 10 USPQ2d 2031, 2033 (Bd. Pat. App. & Inter. 1989), as to where broad language is followed by "such as" and then

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narrow language. The Board stated that this can render a claim indefinite by raising a question or doubt as to whether the feature introduced by such language is (a) merely exemplary of the remainder of the claim, and therefore not required, or (b) a required feature of the claims. Note also, for example, the decisions of *Ex parte Steigewald*, 131 USPQ 74 (Bd. App. 1961); *Ex parte Hall*, 83 USPQ 38 (Bd. App. 1948); and *Ex parte Hasche*, 86 USPQ 481 (Bd. App. 1949).

In the present instance, claim 4 recites the broad recitation "an actuator", and the claim also recites "a linear cylinder" which is the narrower statement of the range/limitation.

In the present instance, claim 5 recites the broad recitation "an actuator", and the claim also recites "a linear cylinder" which is the narrower statement of the range/limitation.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1,4,6 are rejected under 35 U.S.C. 102(b) as being anticipated by Riekki (US 5,846,047).

Re claim 1, Riekki teaches a moveable stowage assembly 10 for a vehicle 14, comprising:

a longitudinal member 30 configured for moving a stowed item 22;

attachment means 70,62,64 for connecting the stowed item 22 to the longitudinal member, the

attachment means 70,62,64 being adapted to travel along the longitudinal member;

first powered means 60 for moving the attachment means between a stowed position and an access position;

a base member 12 secured pivotally to the vehicle 14, the longitudinal member 30 being moveable over the base member by second powered means 24 for moving the longitudinal member 30 between a stowed position and an access position;

means 28 for releasably securing the longitudinal member 30 in the stowed position first stop means 12,24,28 to hold the longitudinal member 30 in an access position on the base member 12;

third powered means (figure 1, powered cylinder) for pivotally moving the base member between stowed position and an access position; and

second stop means (figure 1, powered cylinder) for holding the base member 12 in the access position.

Re claim 4, Riekki teaches the third powered means being an actuator.

Re claim 6, Riekki teaches a sensor 98,106,108 (meets definition of sensor, Merriam-Webster's Collegiate Dictionary 10th edition) in communication with a control system (not numbered) to sequence and regulate movement of the stowage 10.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2,3,8,9,11,12 are rejected under 35 U.S.C. 103(a) as being unpatentable over by Riekki (US 5,846,047) in view of Schatzler (US 2002/0076312).

Re claims 2,3, Riekki teaches first and second powered means but does not teach a closed loop formed by one of a belt, a chain and combinations thereof running around a plurality of sprockets, at least one sprocket being power driven. Schatzler teaches multiple powered means with a closed loop formed by a belt running around a plurality of sprockets, at least one sprocket being power driven to allow for easier loading and unloading of cargo (column 1, paragraph 4). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Riekki by the general teaching of Schatzler to have first and/or second powered means be a closed loop formed by one of a belt running around a plurality of sprockets, at least one sprocket being power driven as a functionally equivalent powered means and to allow for easier loading and unloading of cargo.

Re claims 8,9,11, Riekki teaches moveable stowage assembly 10 for stowing and accessing an item 22 on a vehicle 14, the moveable stowage assembly comprising: a movable member 30 configured for moveably holding an item 22;

a base member 12 pivotally attached to a vehicle portion 14, the movable member 30 further configured to traverse the base member 12 between a stowed position and an intermediate access position;

an attachment 62,64,70 moveably disposed between the movable member 30 and the item 22, the attachment configured to traverse the movable member with the item between one of the stowed position and the intermediate access position and an access position;

an actuator (figure 1, powered cylinder) attached between the vehicle portion 14 and the base member 12, the actuator configured for pivoting the base member from the intermediate access position to the access position to access the item.

Riekki teaches first and second powered means but does not teach a closed loop formed by one of a belt, a chain and combinations thereof running around a plurality of sprockets, at least one sprocket being power driven. Schatzler teaches multiple powered means with a closed loop formed by a belt running around a plurality of sprockets, at least one sprocket being power driven to allow for easier loading and unloading of cargo (column 1, paragraph 4). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Riekki by the general teaching of Schatzler to have first and/or second powered means be a closed loop formed by one of a belt running around a plurality of sprockets, at least one sprocket being power driven as a functionally equivalent powered means and to allow for easier loading and unloading of cargo.

Re claim 12, Riekki teaches the device 10 configured for remote operation 98.

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over by Riekki (US 5,846,047) in view of Monroig (US 6,413,033).

Re claim 5, Riekki shows a third powered means as a cylinder (actuator) but does not provide details. Monroig teaches a similar cylinder 38 that is hydraulic. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Riekki by the general teaching of Monroig to have the cylinder be hydraulic in order to save money by using a known type of cylinder.

Conclusion

Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Over (US 554,196) teaches sprockets and chains.

Pipes (US 4,388,033) teaches a multiplatform device.

Gines (US 4,988,262) teaches a multiplatform device.

Riemer (US 5,346,355) teaches a roof mounted moveable stowage assembly.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to M. Scott Lowe whose telephone number is (571) 272-6929. The examiner can normally be reached on 6:30am-4:30pm M-Th.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eileen Lillis can be reached on (571) 272-6607. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

msl



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